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ABSTRACT

Recent lawsuits and judgments brought against colleges and universities for enacting affirmative action policies are threatening to dismantle the core principles of the Bakke decision (Regents of the University of California v. Bakke) and undermine the Civil Rights Act of 1964. This paper discusses current issues and challenges that pertain to affirmative action programs that are directly related to Title VI of the Civil Rights Act of 1964. Among the most recent challenges to colleges and universities is the case of Johnson v. Board of Regents of the University of Georgia. The decision by the U.S. 11th Circuit Court of Appeals has the potential to alter affirmative action programs and their ability to bridge the gap for minority students seeking educational attainment. The paper also contains a brief review of the historical events that produced the Civil Rights Act of 1964 as background to the discussion of the current controversy. (SLD)

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AFFIRMATIVE ACTION Programs: A CURRENT PERSPECTIVE

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Abstract

Affirmative Action and Current Perspectives

Affirmative action is one of the most controversial issues facing colleges and universities today. Institutions of higher learning have relied on Title VI of the Civil Rights A ct of 1964, and the 1978 Supreme Court case *Regents of the University of California* v. *Bakke* (438 U.S. 265 1978) ruling to justify their affirmative-action programs to desegregate colleges and universities that had previously barred minority students from attending. The ruling issued by Justice Powell declared that colleges could use race as one of the factor in determining admission decisions. The ruling was hailed by advocates of affirmative action as being an essential factor in correcting past discriminatory practices in institutions of higher learning. The common assumption was that by using Justice Powell's ruling from the Bakke case, affirmative action policies would help eradicate traditional racism in higher education and achieve diversification at college and university campuses. However, a series of recent lawsuits and judgments brought against colleges and universities for enacting affirmative action policies are threatening to dismantle the core principles of the Bakke decision and undermine the Civil Rights Act of 1964. In this paper I will discuss current issues and challenges that pertain to Affirmative Action programs that are directly related to Title VI of the Civil Rights Act of 1964. Among the most recent challenges' to colleges and universities is the case Johnson v. Board of Regents of the University of Georgia. The decision by the U.S. 11TH Circuit Court of Appeals has the potential of altering affirmative action programs and their ability to bridge the gap for minority students seeking educational attainment. I will present a brief review of the historical events that produced the Civil Rights Act of 1964 in order that we should fully understand the current issues that surround the most controversial question effecting higher education today.

Affirmative Action A Current Perspective

In 1964 a legislative document entitled the Civil Rights Act of 1964 was enacted, and Title VI of that law guaranteed the right for African Americans to enter into the public school system of higher education. Prior to the enactment of this legislation African Americans were denied access to many of the public institutions of learning. The events that brought about this historical change in America have been attributed to a number of factors. Due in part to the indifference shown to Black Americans regarding their plight, and out of a sense of frustration and individual helplessness arose the Civil Rights Movement. During the 1950's and throughout the 1960's African Americans were asking for the same rights that other citizens enjoyed. The right to vote, the right to attend schools, the right to be served in public places, access to employment opportunities, and other Constitutionally guaranteed rights were being denied to Black Americans. Although freedom had been promised in 1862 it had never been experienced. African Americans were consigned to accept a second -class citizenship by restrictive laws and traditional customs. According to Miller (2002) on September 22nd 1862 President Abraham Lincoln signed the Emancipation Proclamation, freeing African Americans from slavery and yet very little changed for black people.

Citing from Sylvester (1998) these are among the major events that shaped the Civil Rights Movement and changed the consciousness of a nation: ***1942***: James Farmer organized C.O.R.E.(The Congress of Racial Equality), ***1943***: The first lunch counter sit-ins took place in Chicago, Illinois, ***1946***: The U.S. Supreme Court banned segregation in interstate bus travel on June 3rd. ***1946***, Riots occurred in Athens, Alabama on Aug. 10th and in Philadelphia, Pennsylvania on September 29th ,***1946***, The National Committee on Civil Rights was created by

President Harry Truman to investigate racism in America, December 5th , ***1946***; ***1947***: President Truman's Committee on Civil Rights condemned racial injustices towards Black in American on October 29th ***1947***, entitled "To Secure These Rights" ***1954:*** The U.S. Supreme Court ruled unanimously in Brown v. Board of Education that segregation in public schools in America was unconstitutional, ***1955***: The Montgomery Improvement Association was organized after Rosa Parks, a 42 year old black women refused to give up her set to a white passenger on a Montgomery. Dr. martin Luther King Jr. became president of the association and on December 5th the Montgomery boycott began; ***1956***:Dr. King's home was bombed, on February 21st a suit was filled in U.S. District Court asking that Montgomery's segregation laws be declared unconstitutional, on June 4th the U.S. District Court ruled in favor of the plaintiffs. On November 13th the U.S. Supreme Court affirmed the lower court's ruling. This was the first time black passengers could legally sit in any seat on a city bus, ***1957***: an unexploded bomb was left on Dr. King's front porch. The Southern Christian Leadership Conference (SCLC) was organized and Dr. King was elected president, The Congress of the United States passed the Civil Rights Act of 1957, this was the first piece of Civil Rights legislation since 1875, President Eisenhower dispatched federal troops to enforce a court ordered integration plan at Little Rock Arkansas' school, ***1960***: sit-in demonstration grew with Greensboro, North Carolina's Wollworth's lunch counters as the focal point, Texas became first major southern city to integrate its lunch counters, the Student Nonviolent Coordinating Committee (SNCC) was officially organized, President Eisenhower signed into legislation the Civil Rights Act of 1960, Dr. King was arrested in Georgia for picketing and transferred to Reidsville State Prison, he was later released after posting a $2000 bail, ***1961***: C.O.R.E. tested the interstate desegregation laws by busing an integrated group of freedom fighters on the Greyhound bus line from Washington D.C. to

Anniston, Alabama, upon arrival the bus was burned and the freedom riders were beaten.***1962***: it took 12,000 federal marshals to restore order at the University of Mississippi after James Meredith enrolled a the Oxford Campus..

Numerous other event occurred that contributed to the creation of the document known as the Civil Rights Act of 1964, but the focal point of the Civil Rights Movement occurred on ***August 28th 1963*** with the March on Washington led by Dr. Martin Luther King jr., where an estimated 250,000 million Americans of all nationalities converge and demanded that the government respond to the cry for change. In addition to the cry for change there continued to be daily showings on TV of unarmed black men, women, and children being beaten, hosed by water, and bitten by dogs, by their white attackers. There were murders in Mississippi, the bombing of a church in Birmingham, Alabama where four children died, and thousands of people were being jailed for asking for their civil rights. According to Walen, & Walen (1985) wide spread protest movements began to occur throughout the America with people of all nationalities demanding civil rights for the once black slave. By the end of 1963 there had been approximately 800 demonstration, these demonstration drew national and international attention to the crisis that confronted America. In addition to the violence and turmoil that was taking place throughout home, America was also engulfed in an unpopular war in Vietnam where thousands of American soldiers were dying, also during this period many young black people angrily began burning the cities of America down. And in 1963 under a great amount of pressure President John F. Kennedy introduced the Civil Rights bill of 1963. According to Walen & Walen (1985) President Kennedy sent the bill to Congress along with an accompanying message that stated:

> The legal remedies I have proposed are the embodiment of this nation's basic posture of common sense and common justice. They involve every American's right to vote, to go to school, to get a job and to be serve in a public place without arbitrary discrimination – rights which most Americans take for granted. In short, enactment of "The Civil Rights Act of 1963" at this session of Congress is imperative" (p1).

President Kennedy was assassinated in Dallas, Texas on November 22nd 1963 and did not see the enactment of the bill he had sent to Congress. With some modifications to the original document, the Civil Rights Act of 1964 was signed into law on July 2nd 1964 by President Lyndon B. Johnson, in the presence of Dr. Martin Luther King jr. According to Walen & Walen (1985) the major provisions of the Civil Rights Act of 1964 are:

Title I. Voting Rights.

Prohibited denial of the right to vote in national elections because of race, color, religion, origin.

(***state and local election coverage deleted in McCulloch-Justice Department compromise***) made a sixth- grade education a presumption of literacy; required all literacy tests to be in writing; made provisions of the act applicable to Puerto Rico (Cramer floor amendment); permitted a three-judge federal court to hear voting rights cases if requested by the attorney general (***McCulloch-Justice Department compromise***) or the defendant (***Poff floor amendment).***

Title II. Injunctive Relief against Discrimination in Places of Public Accommodation.

Prohibited discrimination on the basis of race, color, religion, or national origin in motels inns, rooming houses (***except owner-occupied residences of five units or less)***, restaurants,

cafeterias, lunch counters, soda fountains, motion picture houses, theaters, concert halls, sports arenas, stadiums, gasoline stations; specifically exempted private clubs and omitted from coverage retail stores and personal services, such as physicians, barber shops, and small places of amusement, except when operating in cover public accommodations (***McCulloch-Justice Department compromise).***

Authorized aggrieved individuals to file suit in federal court to seek relief against discriminatory practices; permitted the attorney general to intervene in such suit or to initiate a civil action when a pattern or practice of discrimination is believed to exist (***Dirksen substitute***).

Established procedures whereby grievances would be considered initially by local or state authorities ***(Dirksen substitute***).

Title III. Desegregation of Public Facilities (Rogers subcommittee amendment).

Authorized the Justice Department to file suits to desegregate state or locally owned or operated public facilities, such as parks, upon receipt of written complaint of aggrieved individuals who, in the opinion of the attorney general, and financially unable to under-take legal proceedings or face personal dangers if they do so.

Title IV. Desegregation of Public Education.

Permitted the U.S. Office of Education, upon request of local school boards, to give technical and financial assistance for the planning or implementation of desegregation programs, but in cases of racial imbalance (***McCulloch subcommittee amendment***).

Authorized the Justice Department to file suit to desegregate public schools or colleges upon receipt of written complaint of aggrieved individuals who, in the opinion of the attorney general, are unable to undertake such a suit (***attorney general must notify school board prior to initiating the suit to give local authorized time to remedy the situation***); specified that

nothing in the title shall empower any official or court to issue an order to achieve racial balance (McCulloch-Justice Department compromise).

Title V. Commission on Civil Rights.

Extended the life of the commission through January 31, 1960 (Rogers floor amendment).

Authorized commission to serve as a national clearinghouse for civil rights information; permitted commission to investigate alleged vote frauds (***Cramer provision in McCulloch-Justice Department compromise).***

Prohibit the commission from investigating membership practices of fraternal or religious organizations, private clubs, college fraternities and sororities (Willis floor amendment).

Title VI. Nondiscrimination on Federally Assisted Programs.

Prohibited discrimination on the basis of race, color, or national origin in the conduct of any federally financed programs; authorized federal agencies, upon failure to achieve voluntary compliance from fund recipient, to terminate funding; decision of agency to terminate assistance subject to judicial review.

Title VII. Equal Employment Opportunity (Rodino subcommittee amendment).

Prohibited discrimination by firms with 25 or more employees (***as of July 1968***) on the basis of race, color, religion, sex, (***Smith floor amendment***), and national origin in the hiring and classification of employees; declared it not unlawful to apply different standards on basis of bona find seniority or merit system agreements; made it illegal for unions to discriminate on the basis of race, color, religion, sex, or national origin in their membership practices; gave preferential treatment to India- operated enterprises on or near reservations (***Mundt provision in Dirksen substitute)***; excluded Communists from coverage (***Colmer floor amendment***).

Created a five – member Equal Employment Opportunity Commission with the authority to investigate written charges of discriminatory employment practices; established procedures whereby commission would seek to resolve grievances through mediation but, upon its failure to do so, would refer them to state or local authorities for resolution (***Dirksen substitute***); if voluntary compliance not secured 60 days thereafter, aggrieved parties permitted to file in federal court where both plaintiff and defendant can request jury (***Griffin- Goodell-Quie provision in McCulloch-Justice Department compromise***); authorized court to permit attorney general to intervene in such suits; empowered attorney general to file suit when a pattern or practice of employment discrimination is believe to exist (***Dirksen substitute***).

Title VIII. Registration and Voting Statistics (McColloch subcommittee amendment)

Directed the Bureau of Census to gather registration and voting statistics based on race, color, and national origin for primary and general elections for the House of Representatives held since January 1, 1960, in districts designated by the Commission on Civil Rights.

Title IX. Intervention and Procedure after Remand of Civil Rights Cases ***(Celler subcommittee amendment)***

Made review-able in federal appeals courts the decisions of federal district court judges to remand civil rights cases to state courts.

Permitted the attorney general to intervene in suits filed by those alleging violation of their rights under the 14th Amendment (***Dirksen substitute***).

Title X. Establishment of Community Relations Service (Ashmore floor amendment)

Established within the department of Commerce a Community Relations Service to help states and communities resolve disputes alleging discriminatory practices based on aggrieved party's race, color, or national origin.

Title XI. Miscellaneous

Permitted jury trails upon demand in any criminal contempt cases arising under the act, except voting rights, with sentences limited to a maximum of six months imprisonment and a $1,000 fine (***revised Morton floor amendment***); authorized appropriations to implement the act

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* Changes made by Congress are inserted in parentheses and set in italics.

This is the background history of how Title VI became the corner stone that African Americans and other minorities have used to gain access into institutions of higher education. Today colleges and universities are becoming the targets for lawsuits, that challenge the core principles of Title VI, a case that has had a profound impact on public institutions of higher education is; Docket No. 99 - 00169 - CV-4, Jennifer L. Johnson, and all others similarly situated, AIMEE Bogrow, etal., Plaintiffs. Appellees. Cross-Appellants Versus Board of Regents of the University of Georgia. d.b.a. University of Georgia, Defendant - Appellant. (August 27, 2001) In the United States Court of Appeals for the Eleventh Circuit Nos. 00 - 14340 & 00 - 14382 D.C. before Birch, Marcus, and Wood, Circuit Judges.

This case represents a turning point in the legal arena regarding affirmative action programs, as assumed under Title VI of the Civil Rights Act of 1964, and in conduction with Justice Powells' ruling in the Bakke (Regents of the University of California v. Bakke, 438, U.S. 265, 98 S.Ct. 2733 (1978). The facts in the Johnson v. Board of Regents of the University of Georgia case is, a legal challenge was brought against the University of Georgia's freshman admission's policy. Specifically, a legal challenge against, a pre-determined numerical point system that was set aside to help increase student diversity among African Americans. The

percentage point system provided African Americans and males a leverage in the admission of the freshman class.

UGA is the flagship institution of Georgia's university system and for 160 years African Americans were not allowed to attend UGA. The first African Americans were admitted in 1961, and in 1969 the federal government represented by the Office of Civil Rights determined that Georgia's university system promoted segregation in its higher educational system based on race. The OCR found that past patterns of racial segregation still occurred within UGA's system and in 1970, OCR ordered the Board of Regents to develop and submit a desegregation plan that would resolve the remaining issues of segregation and alleviate the vestiges of discrimination. Among the requirements that were needed to erase the vestiges of past patterns were programs designed to increase the number of African-American students. UGA complied with the mandate, and in March of 1989, OCR advised the State of Georgia that the University system desegregation program was in compliance with Title VI, and that no additional desegregation measures were required at that time. During that period, OCR did advise the State of Georgia to maintain compliance with Title VI and to avoid "discrimination on the basis of race, color, or national origin" (Case law. 1p.findlaw). Between 1990 and 1995, UGA implemented a policy regarding the Admissions process for freshman applicants that applied different standards based upon whether an applicant identified himself or herself as "Black or non-Black."

Caselaw.1p.findlaw (2000) states: "To be eligible for admission, an applicant had to meet certain pre-set minimums with respect to Scholastic Aptitude Test (SAT) scores, Grade Point Average (GPA), and Academic Index (AI)" p4. Under the 1990 - 95 policy the minimum standards for black students were set lower than the minimum standards for non-black students. In 1995, UGA became concerned about the legality of its dual track admissions policy and

revised its admissions policy for the 1996 freshman class. The new admissions policy consisted of 3 phases. In the first phase known as (the First Notice stage) UGA selected its freshman class based solely on objective academic criteria without regard to race. During this period the major consideration for entry was an applicant's AI's and SAT scores being above a certain number. The highest scoring applicants are automatically accepted.

From the remaining group of applicants UGA selected for further evaluation, applications of those who's AI's were above a certain number and they met the SAT requirements. Those applicants who fell below the minimum AI's or SAT score requirements were automatically rejected. For each applicant that remained in the pool for further evaluation UGA calculated a Total Student Index (TSI). It was at this phase of the application process that UGA considered a combination of factors that included: weighted academic issues, extra curricular activities, demographic information and an applicant's race. At the final stage the applicants whose TSI score met a pre-set threshold were automatically admitted and those applicants who did not meet the pre-determined qualifications were rejected. During this final phase of the process an Admissions Officer would pass on applicants whose TSI scores fell within the guidelines for further evaluations on an individual basis. At this stage, every applicant starts with a score of zero. According to caselaw.lp.findlaw.com (2000) the final process for these applicants consisted of the Admissions Officer considering a total of twelve factors that are given a maximum point level of 8.15. Also during this phase of the process Caselaw.lp.findlaw.com asserts (2000) the "Edge Read" or the " ER" stage is the only stage in the freshman admissions process where an applicants file is read by an admission officer, and qualitatively evaluated. (p.5). In addition to the "ER" the applicant's AI, SAT, GPA and Curriculum quality account for a maximum of 5.40 points or 67%. The remaining factors taken

into account were: leadership activity, parent or sibling ties to UGA, hours spent on summer work, hours spent on school year work, and first generation college. These factors were identified as possibly accounting for 1.5 points or 18% of the available total. The most weighted of the factors were "both parents "or no college education, worth 0.5 points. Lastly, the three remaining factors were based on demographics, i.e., race/ethnicity (non-Caucasian) gender (male) and Georgia residency. Total points for consideration equal 1.25 or a 15% maximum available. At this end stage of the Admissions process, all applicants with a TSI score of 4.93 or above were offered admission, and candidates with a score below 4.66 are rejected, while applicants whose TSI scores fall within a guideline of 4.66 and 4.92 survived the final "Edge read" stage.

Case law (2001) states:

> In practice, awarding the 0.5 point credit to non-white applicants meant that white applicants needed a TSI score of at least 4.93 to be admitted at the TSI stage, while non-white applicants effectively needed a TSI score of at least 4.66, while a non-white applicant, because of the 0.5 boost, effectively needed only a 4.16 (p.5)

The basis of the three white female plaintiffs rested upon the following facts: (1) all three plaintiffs survived the first notice stage, but did not meet the standards for automatic admission. The plaintiff, Johnson, achieved a score of 410 at the TSI level, because she was a white female, UGA did not accord her the 0.5 racial or the 0.25 gender bonus granted to non-white male applicants. Johnson was denied admission to UGA. The plaintiff contends had UGA accorded her a cumulative 0.75 bonus, her TSI would have been 4.85, which would have assured her of being considered at the "ER" stage. Plaintiffs Bogrow and Beckenhaure

> achieved TSI 's of 4.52 and 4.06. Neither, Bogrow or Beckenhaure were awarded the 0.5 racial bonus or the 0.25 gender bonus. If the consideration of bonus points had been awarded to Bogrow she would have been admitted, and Beckenhauer would have qualified for ER consideration (p.6).

According to the summary judgment issued by the District Court the plaintiff was granted the motion to certify a class seeking to enjoin the use of race or gender in the freshman admissions process. The class consisted of "all similarly situated past, present, and future applicants to UGA's freshman class denied admission or consideration for admission because of their race or gender.

Among the primary issues before the U.S. 11TH Circuit Court of Appeals in the appeals process related to the District Court's summary judgment in favor of the plaintiffs on the ground that UGA's 1999 freshman admissions policy that violated Title VI and by extension Equal Protection because of the use of different standards in its admissions practices. The essence of the issue was whether student body diversity may be a compelling interest, and if so, whether UGA presented its burden of evidence showing that its policy was narrowly tailored to serve that interest. A group of African American students identified as defendants in the case and known as the Intervenors separately contended that UGA's admissions policy was justifiable because it served as a means of amelioration of the vestiges of UGA's past discriminatory practices.

The decision of the U.S. 11TH Circuit Court of Appeals in the case of Johnson v. Board of Regents of the University of Georgia was in favor of the plaintiffs and against the Board of Regents of the University of Georgia. The Court issued this statement in its findings (2001).

> The Supreme Court has explained that, although in certain circumstances drawing

> racial distinctions is permissible where a governmental body is pursuing a compelling state interest, a state " is constrained in how it may pursue that end: The means chosen to accomplish the State's asserted purpose must be specifically and narrowly framed to accomplish that purpose". Shaw II, 517 U.S. at 908, 116S. Ct. at 1902. The important purpose of the narrow tailoring requirement is to ensure that "the chosen means "fit in the compelling goal so closely that there is little or no possibility that the motive for classification was illegitimate racial prejudice or stereotype ". Croson, 488 U.S. at 493, 109 S. Ct. at 721. By definition, this inquiry must be intrusive, and focused very closely and in a very precise way on the specific terms of the regulation or policy under review, because only with that kind of searching examination can a court ensure that the defendant's use of race is truly as narrow as the Constitution requires. See In re Birmingham Reverse Discrimination Employment Litigation, 20 F. 3d 1525 (11TH Cir. 1994) (a race conscious government policy justified by a compelling purpose… Must also use race in as limited a manner as possible to accomplish this compelling purpose (p.11).

The ruling of the Justices continued, declaring, "In our view UGA does not even come close to making that showing" (p.11).

The ruling against UGA's freshman admissions policy by the U.S. Court of Appeals for the 11th Circuit district has produced a growing number of legal and political problems for many campus based affirmative action programs. The challenges to campus affirmative action programs are increasing, and according to Lederman (1996) this is occurring as an aftermath of the U.S. Court of Appeals for the 11th Circuit. The following information is a list of states that

have challenges pending or resolved regarding campus based affirmative programs: Arizona University, Ordered to Review Affirmative Action (12/8/95) California, Court ruling could end outreach to minority students in California (12/15/2000) A.P. Courses are new target in struggle over access to colleges in California (11/26/99) Supreme Court refuses appeal on California measure barring affirmative action (11/14/97) Colorado report criticizes college's diversity plan (4/23/99) Avoid race-based scholarship, Colorado official tells colleges (1/5/96) Florida, Scholars say Florida Governor's plan to end affirmative action hurt Bush election (11/24/2000) Georgia, Judge rules that U.of Georgia gave unconstitutional preferences to African American applicants (1/22/99) Louisiana, Affirmative action survives at colleges in some States covered by the Hopwood ruling (4/24/98) and the list continues, please see footnote [1]Issues in depth.

Other example of the current thinking regarding affirmative action is; a group of students who had been denied admissions to Texas Law School in 1994 sued the school claiming they had been discriminated against by its affirmative action admissions policy. A law student sued the Board of Governors of the University of North Carolina over its policy that some of its members must be women and that other members must be from minority groups.

The National Science Foundation settled a lawsuit (1994) that had been filed against a summer program that was run by Texas A&M University. The case involved a 12 year old white student who claimed she had been discriminated against because she was ineligible to attend a camp because of her color. After settling the case in favor of the plaintiff's complaint, Texas A & M discontinued its summer camp for minority children. The cases that I have cited are current legal challenges that are now besetting affirmative action programs. These challenges are a step backwards that can only lead us to engage in past patterns of educational inequality

[1] Issues in depth: Affirmative Action

Please see footnote [2]

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Percentage distribution of undergraduates, by their undergraduate grade point average: 1999-2000

Institutional and student characteristics	C's and D's or lower	B's and C's	Mostly B's	A's and B's	Mostly A's
Total	**33.5**	**16.4**	**24.6**	**10.9**	**14.5**
4-year sector[1]					
Public and private not-for-profit	30.7	20.3	26.6	11.1	11.3
Public	34.4	21.2	25.1	9.7	9.7
Private not-for-profit	22.4	18.2	30.1	14.4	15.0
Institution type[1]					
Public					
Less-than-2-year	23.5	4.7	25.0	23.2	23.6
2-year	38.2	13.2	22.3	9.8	16.6
4-year nondoctorate-granting	36.4	21.5	23.6	8.4	10.0
4-year doctorate-granting	33.2	21.0	25.9	10.4	9.6
Private not-for-profit					
Less-than-4-year	30.1	14.4	25.7	11.9	17.9
4-year nondoctorate-granting	23.5	17.5	28.5	13.9	16.6
4-year doctorate-granting	20.7	19.2	32.4	15.1	12.5
Private for-profit	25.6	12.1	23.8	16.2	22.3
More than one institution[1]	29.7	14.1	26.0	12.6	17.6
Class level					

Graduating senior	13.7	20.8	35.9	15.6	14.1
All other undergraduates	34.9	16.1	23.8	10.6	14.6
Attendance intensity					
Exclusively full-time	32.3	18.8	26.4	11.5	11.0
Mixed full-time and part-time	34.3	19.3	24.7	9.8	11.9
Exclusively part-time	34.9	11.5	22.0	10.7	21.0
Gender					
Male	38.8	16.6	22.6	9.6	12.4
Female	29.4	16.2	26.2	12.0	16.2
Race					
One race					
White	30.3	16.2	25.3	11.7	16.5
Black or African American	48.9	16.0	20.3	7.5	7.3
Asian	32.2	17.7	26.4	10.1	13.6
American Indian/Alaska Native	41.8	16.9	23.3	9.7	8.3
Native Hawaiian/ Other Pacific Islander	39.6	19.7	22.3	9.7	8.7
Other race	39.3	17.8	24.3	9.5	9.0
More than one race	34.0	15.8	25.8	11.9	12.5
Hispanic or Latino (any race)					
Not Hispanic or Latino	32.4	16.4	24.7	11.3	15.2
Hispanic or Latino	41.8	16.7	23.7	8.3	9.6
Dependency status					
Dependent	38.2	18.8	25.2	9.4	8.4
Independent	29.0	14.0	24.1	12.4	20.6
No dependents, unmarried	31.7	16.1	23.8	11.4	16.9
Married, no dependents	22.7	11.5	22.7	14.1	29.0
Single parent	38.9	14.9	23.8	9.1	13.3
Married parents	20.0	12.2	25.4	15.6	26.9
Age as of 12/31/99					
18 years or younger	42.6	14.7	23.4	9.4	10.0
19-23 years	38.1	19.0	25.1	9.4	8.3
24-29 years	33.3	16.9	24.7	10.3	14.9
30-39 years	23.1	13.2	25.9	14.8	23.0

40 years or older	20.1	10.1	22.0	14.8	33.0
Dependent income quartiles					
Low quartile	44.1	17.8	23.4	8.4	6.2
Middle quartiles	38.0	18.7	25.1	9.3	9.0
High quartile	32.5	20.1	27.2	10.7	9.4
Independent income quartiles					
Low quartile	38.6	16.6	23.1	10.1	11.5
Middle quartiles	28.1	14.5	24.6	12.4	20.4
High quartile	20.4	10.3	23.8	14.8	30.7
Parents' education					
High school diploma or less	31.2	15.6	24.6	12.3	16.4
Some postsecondary education	33.7	16.7	25.0	10.8	13.8
Bachelor's degree or higher	28.5	17.7	26.3	12.4	15.1
Disability status					
No disability reported	30.1	16.6	25.5	12.1	15.7
Some type of disability reported	37.0	16.2	23.0	10.3	13.6
Average hours worked while enrolled					
Did not work	29.3	16.0	25.5	12.5	16.8
Worked part time	31.0	19.5	27.0	11.4	11.1
Worked full time	31.3	13.8	23.2	12.2	19.4

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The above statistical data reflects the current need for continued campus- based affirmative action programs to remain in place.

In conclusion affirmative action remains the most controversial issue effecting colleges and universities.

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The qualitative and quantitative result of affirmative action cannot be measured in a span of 38 years, when we remember that the conditioning process of slavery spanned over five hundred years. According to Schmidt (2001) Justice Lewis F. Powell Jr. in his opinion stated in Regents of the University v. Bakke, "held that the government had a compelling interest in allowing public colleges to give some consideration to race in admissions, because a diverse enrollment helps create an atmosphere "conductive to speculation, experiment, and creation, and because students need to be prepared to live in a diversity society" p.3.

The evidence that I have presented in this paper is reflective of the current thinking of those who oppose continuing affirmative action programs. I have also provided information showing why we must continue with affirmative action programs. The fact of the matter is, the government has a compelling interest in allowing public colleges to promote educational pluralism and should reinforce the provisions set forth in the 1964 Civil Rights Act, Title VI mandate, so that we may remain a united and strong nation of people.

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